

# Lawmakers want investigation into insurance policy changes

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HARTFORD — Lawmakers are calling for an investigation into insurance companies' potential unfair practices regarding coverage for crumbling foundations, an investigation that was recommended in 2016 but never conducted.

The 21-member bipartisan crumbling foundation caucus sent a letter Tuesday to Gov. Ned Lamont, Attorney General William Tong, and Insurance Department Commissioner Andrew N. Mais, requesting an investigation into potential Connecticut Unfair Insurance Practices Act, or CUIPA, violations.

The request comes in response to issues discussed during a public hearing in March and a recommendation from former Attorney General George Jepsen in 2016.

During a joint legislative committee public hearing last month, many questions were raised regarding insurance companies changing of policy language to exclude coverage for foundations that are slowly deteriorating, as well as how and when policyholders were notified of the changes.

Eric George, president of the Insurance Association of Connecticut, said the Insurance Services Office, an advisory organization that drafts homeowner policy language throughout the country, developed the

wording to clarify insurance companies' initial intent.

During the March meeting, Rep. Thomas Delnicki, R-South Windsor, said insurance executives have told him they asked the Insurance Services Office for the language changes in response to an 1987 court case that ruled in favor of the policyholder because language at that time was ambiguous.

The most recent language change, which must be approved by the state Insurance Department, was in June 2016, and included the same Insurance Services Office recommendations — requiring an abrupt collapse of a foundation rather than slow deterioration associated with pyrrhotite.

Last month, Rep. Kurt Vail, R-Stafford, questioned why premiums would decrease when changes were made reducing the risk insurance companies face.

During the public hearing, George admitted to providing false information about the potential for rate increases if foundations were forced to be covered.

In February 2018, as the legislature was considering a bill that would require coverage, he said rates would increase nearly 200 percent if the bill up for debate requiring coverage for "peril of collapse" were to become law.

Last month, George said he asked his member companies what the impact would be, and received "varying results."

"It is by no means scientific,"

he said of the rate increases he asserted as fact the year before.

George added that he has not done an actuary analysis of this year's peril of collapse bill, which died in committee, but admitted last month that his previous numbers were "irrelevant" to this year's legislation.

His assertion last year led to legislative leaders tabling a public hearing on the peril of collapse bill.

The public hearing also revealed what South Windsor lawyer Keith Yagaloff called "illusory coverage" provided by insurance companies.

He said that concrete basement walls never would collapse abruptly regardless of how much a foundation cracks.

"This is an illusion," Yagaloff said, adding that insurance companies are providing coverage for something that would never actually happen. "They intentionally changed this language. They knew this condition doesn't occur. They went to the insurance commissioner and got permission to change the language, and they basically wrote out coverage for everybody with this condition."

The question of whether insurance companies should be covering crumbling foundations is the subject of a Connecticut Supreme Court case, which is expected to be decided this summer.

The state could have begun a CUIPA investigation two years ago, a month after the most recent company changed its language.

A July 2016 letter from Jepsen to former Gov. Dannel P. Malloy and former Department of Consumer Protection Commissioner Jonathan Harris detailed insurance companies' refusal to provide coverage for crumbling foundations, noting that some homeowners alleged CUIPA violations.

"Our understanding is that some of those homeowners and others have questioned the fairness and adequacy of disclosures made by some companies when coverage language was changed to erect barriers to these kinds of crumbling concrete claims," Jepsen wrote. "Those concerns are serious and warrant further review."

He noted that a CUIPA investigation would have to be initiated by the Insurance Department, which chose not to investigate.

If the Insurance Department has a reason to believe unfair practices have occurred, its commissioner can begin a hearing.

Under state statute, the Insurance Department may "as often as the commissioner deems necessary, conduct investigations and hearings in aid of any investigation, on any matter under the provision of (Title 38, Insurance.)" During an investigation, the insurance commissioner may issue subpoenas, compel testimony, and order production of documents.

If unfair conduct were found, the Insurance Department can order "far-reaching relief," including monetary fines and license revocation, Jepsen wrote, adding that he was willing to work with former Insurance Commissioner Katherine Wade if she chose to begin a CUIPA

no substantial action was taken as a result of this letter, but with the dawn of a new administration, we are asking for the new insurance commissioner and new attorney general to take a fresh look at this issue," lawmakers wrote Tuesday.

They added that there are recent documented cases of affected homeowners having their insurance policies canceled due to crumbling foundations, which Lamont's Insurance Department immediately remedied.

"The taxpayers and homeowner insurance policyholders of Connecticut are currently footing the bill for this catastrophe," legislators wrote Tuesday. "The time has come for a CUIPA investigation. Transparency and accountability for all stakeholders in this issue is critical for our communities."

The Lamont administration has yet to decide whether an investigation will begin.

"Having just recently received the letter, the governor's office, in collaboration with the Connecticut Insurance Department, will review the request carefully, understanding the impact that crumbling foundations have had on the lives of people across eastern Connecticut," Lamont spokeswoman Maribel La Luz said.

"The office of the attorney general is closely monitoring this matter," Attorney General William Tong spokeswoman Elizabeth Benton said, adding that under state statute the authority to open a CUIPA investigation rests with the Insurance Department.

"This is a state problem and we do have to find a solution,